

**REMARKS**

The rejection of Claims 1, 3-6, 8, 9, 18, 19, 21, 23-27, 31 and 32 as anticipated by WO 99/55954 to Oakey is respectfully traversed. In Oakey, there is provided a floor covering formed of inverted tufted primary backing wherein the back loops or backstitches of the yarn form the entirety of the wear surface. The primary backing of the present invention, however, has two discrete wear surface portions. One wear surface portion is formed by a plurality of backstitches of the tufted yarns exposed along the wear surface. Other portions of the wear surface are formed by the primary backing *per se* and which are exposed along the wear surface, the two wear surface portions having different aesthetic characteristics. For example, as seen in Figure 5, the backstitches are indicated at 14b and form an exposed wear surface portion, while the primary backing, preferably formed of a woven material, forms the wear surface portions indicated at 12b. Nowhere in the Oakey patent is there even an implication that the backing 9 forms part of the wear surface. Indeed, the entirety of the wear surface in Oakey is formed by the loop portions 8 of the tufted yarn.

The claims clearly distinguish from Oakey by requiring the discrete wear surface portions to be formed of different parts of the covering, i.e., the backstitches of the tufted yarns on the one hand and exposed portions of the primary backing on the other hand. This is even more particularly set forth in the added claims which require the discrete wear surface portion of the primary backing to include an area void of tufted yarns. Additionally, the areas void of tufted yarns are exposed at an elevation above any other

material in the covering forming part of the area (see Claims 34, 36 and 38). In any event, Oakey does not disclose exposed portions of his carpet characterized by a combination of backstitches of tufted yarns and the primary backing, each of which have different aesthetic characteristics. Applicants note that the Examiner has not addressed the two discrete wear surface portions as claimed in the rejection but merely has alluded to the primary backing and tufted yarns in Oakey. While the Examiner does state that the primary backing and tufted back loops have different colorings to afford different aesthetic effects, that reference in Oakey (p. 5, ll. 7-9) refers to the tufts and not to the tufts and primary backing portions. That is, Oakey is referring to different colorings in the tufts in a single carpet and not to a difference in coloring of tufts and primary backing. Consequently, applicants submit that the claimed elements are not found in Oakey.

The rejection of Claims 1, 3-5, 9, 20, 21, 23, 24 and 27 as anticipated by U.S. Patent No. 4,563,378 to Roth is traversed, substantially for the same reasons noted above with respect to Oakey. Roth does not disclose use of the primary backing as part of the overall exposed design of the floor covering. Roth is similar in this respect to Oakey in that both use tufted back loops to form the wear surface throughout the extent of the floor coverings. The Examiner notes the primary backing and the tufted loops may be of the same color. Roth does mention dyeing the primary backing the same color as the yarn. However, the purpose of this is to match the interior of the automobile rather than as an overall design element within the floor covering itself.

The rejection of Claims 1, 10, 15, 16, 20, 22 and 28 as unpatentable over Oakey or Roth is respectfully traversed. Notwithstanding the alleged common knowledge of forming a primary backing of polypropylene tape or ribbon woven scrim, the fact remains that the reference does not disclose discrete wear surface portions formed of backstitches of tufted yarns and the primary backing. Moreover, the Examiner states it would have been obvious to apply an ultraviolet stabilizer to the fibers of a floor wear surface. However, using a woven or non-woven primary backing made of polypropylene and treating that backing with ultraviolet stabilizers is neither common nor obvious. Conventionally, those primary backings are not treated as they are hidden from UV light sources by the face yarns. Because in the present invention a substantial portion of the primary backing is exposed directly, the primary backing is treated with UV stabilizers. Neither Roth nor Oakey specifically mention use of UV stabilizers because, even if used in the tufted yarns, neither reference has or intends to have the primary backing exposed to UV light sources as part of the overall design of the floor covering.

The rejection of Claims 7, 11 and 12, variously dependent upon Claim 1, as unpatentable over Oakey or Roth in view of Oakey and also the rejection of Claims 13, 14 and 29 as unpatentable over Oakey, as well as over Roth in view of Oakey, are respectfully traversed for the reasons noted above. Similarly, Claims 17 and 30 are submitted as clearly patentable over Oakey since Oakey does not require exposed wear

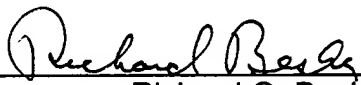
HUTCHISON  
Serial No. 09/846,782  
May 14, 2003

surface portions of a covering including backstitches of tufted yarns and portions of the primary backing.

Accordingly, applicants believe the application is now in condition for allowance and early notification of the allowance thereof is respectfully requested.

Respectfully submitted,

**NIXON & VANDERHYE P.C.**

By:   
Richard G. Besha  
Reg. No. 22,770

RGB:alm  
1100 North Glebe Road, 8th Floor  
Arlington, VA 22201-4714  
Telephone: (703) 816-4000  
Facsimile: (703) 816-4100